



STATE OF TENNESSEE
DEPARTMENT OF ENVIRONMENT AND CONSERVATION
Division of Air Pollution Control
9th Floor, L & C Annex
401 Church Street
Nashville, TN 37243-1531

MAY 07 2008

CERTIFIED MAIL #7007 0710 0001 6710 8733
RETURN RECEIPT REQUESTED

Jerry Garland
G&M Oil Co. Inc.
76 Old U.S. 25E
Barbourville, KY 40906

RE: G&M Oil Co. INC. d/b/a Lake City Shell
File No. 01-0232-G2
Case No. 08-0063

Dear Mr. Garland:

Enclosed please find an Order issued by Barry R. Stephens, Technical Secretary of the Air Pollution Control Board, Tennessee Department of Environment and Conservation, in the above referenced matter. Please read it carefully. Pay special attention to the **RELIEF** section and note that the civil penalty assessment is **NOT** due and payable **UNLESS** the Respondent (as named in Paragraph II of the Order) is involved in further violations of Division Rules subsequent to the ones addressed in the enclosed Order.

If you have any questions regarding this matter, please contact me at (615) 532-0554.

Sincerely,

A handwritten signature in cursive script, reading "Tammy L. Medlen", is written over the typed name.

Tammy L. Medlen
Chief of Enforcement
Division of Air Pollution Control

TLM/rlp

Enclosure

cc: EFO - Knoxville

TENNESSEE AIR POLLUTION CONTROL BOARD

IN THE MATTER OF:

**G&M OIL CO. INC.
d/b/a LAKE CITY SHELL**

)
)
)
) **DIVISION OF AIR POLLUTION**
) **CONTROL**
)
) **CASE NO. APC-08-0063**
)

RESPONDENT

**TECHNICAL SECRETARY'S ORDER AND ASSESSMENT OF
CIVIL PENALTY**

Comes now, Barry R. Stephens, Technical Secretary of the Air Pollution Control Board, and states that:

PARTIES

I.

Barry R. Stephens is the Technical Secretary (hereinafter referred to in both below mentioned capacities as the "Secretary") of the Air Pollution Control Board (the "Board") and Director of the Division of Air Pollution Control (the "Division"), Tennessee Department of Environment and Conservation.

II.

G&M Oil Co. Inc. d/b/a Lake City Shell (hereinafter referred to as the "Respondent") is a foreign corporation that leases and operates a permitted facility in Tennessee. The Respondent's facility address is 705 North Main Street, Lake City, Tennessee 37769. The Respondent's registered agent for service of process is Jerry Garland, 760 Old U.S. 25E, Barbourville, KY 40906.

JURISDICTION

III.

Pursuant to T.C.A. Section 68-201-116, the Secretary may assess a civil penalty of up to TWENTY-FIVE THOUSAND DOLLARS (\$25,000) per day for each day of violation of the Tennessee Air Quality Act (the "Act") or any rules or regulations promulgated thereunder against any person who violates said Act or rules and/or the Secretary may issue an order for correction to the responsible person when provisions of the Act are being violated. In addition, such person may also be liable for any damages to the State resulting therefrom.

IV.

The Respondent is a "person" within the meaning of T.C.A. Section 68-201-102.

FACTS

V.

This Order addresses the following violation(s) of Division Rules:

VI.

A. **Method of Discovery:** On July 26, 2006, the Division received the Respondent's initial certification for an existing gasoline dispensing facility.

B. **Established Requirement:** For those qualifying gasoline dispensing facilities that are existing sources on December 29, 2004, the initial compliance certifications shall be submitted to the Division by May 1, 2006.

C. **Respondent's noncompliance with established requirement:** The Division received the Respondent's initial certification on July 26, 2006, approximately eighty-six (86) days late.

D. **Division Rule(s) violated:** 1200-3-2-.18-.24(5)(a)1, set out in the VIOLATIONS section below.

E. **Date Notice of Violation issued to the Respondent:** On December 4, 2007, the Division issued a Notice of Violation issued to the Respondent for this noncompliance.

F. **Resolution of noncompliance with the established requirement:** On July 26, 2006, the Division received the Respondent's initial certification.

VII.

A. **Method of Discovery:** On July 26, 2006, the Division received the Respondent's operating permit application for a gasoline dispensing facility.

B. **Established Requirement:** No person shall operate an air contaminant source in the state of Tennessee without first obtaining a valid operating permit from the Technical Secretary.

C. **Respondent's noncompliance with established requirement:** The Respondent began operation of the afore-mentioned air contaminant source on or about April 17, 2006, approximately one hundred days prior to submitting an operating permit application.

D. **Division Rule(s) violated:** 1200-3-9-.02(2), set out in the VIOLATIONS section below.

E. **Date Notice of Violation issued to the Respondent:** On December 4, 2007, the Division issued a Notice of Violation issued to the Respondent for this noncompliance.

F. **Resolution of noncompliance with the established requirement:** On December 7, 2007, Operating Permit No. 061414G was issued to the Respondent.

VIOLATIONS

VIII.

By not submitting an initial compliance certification for an existing gasoline dispensing facility to the Division by May 1, 2006, as discussed herein, the Respondent has violated Division Rule 1200-3-2-.18-.24(5)(a)1. Said Rule states in pertinent as follows:

1. Initial Compliance Certifications - The owner or operator of any facility containing sources subject to this rule...that are existing sources on December 29, 2004, the initial compliance certifications shall be submitted by May 1, 2006, instead of the date specified in Paragraph 1200-3-18-.04(1).

IX.

By operating an air contaminant source without an operating permit, as discussed herein, the Respondents have violated Division Rule 1200-3-9-.02(2). Said rule states, in pertinent part, as follows:

No person shall operate an air contaminant source in Tennessee without first obtaining an operating permit from the Technical Secretary ...

RELIEF

X.

WHEREFORE, PREMISES CONSIDERED, I, Barry R. Stephens, Technical Secretary, under the authority vested in me, hereby ORDER the Respondent to perform the following actions:

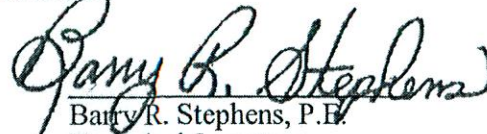
1. A **CIVIL PENALTY** of **ONE THOUSAND DOLLARS (\$1,000)** is **ASSESSED** against the Respondent for the violation of Division Rules, as discussed herein.

2. The **CIVIL PENALTY** shall be **waived, if and only if**, the Respondent does not cause, suffer, allow, or permit subsequent violations of Division Regulations during the **twenty-four (24)** month period beginning with the date of this Order.

3. If the Respondent does cause, suffer, allow, or permit subsequent violations during the period specified in Item 2 above, the full **CIVIL PENALTY** amount of **ONE THOUSAND DOLLARS (\$1,000)** will be due and payable to the Division upon written notification from the Technical Secretary.

The Secretary does not expressly or implicitly waive his authority pursuant to any provision of the Tennessee Air Quality Act or Department Rules promulgated thereunder by issuing this ORDER AND ASSESSMENT OF CIVIL PENALTY.

Issued the 07 day of MAY, 2008, in the Office of the Technical
Secretary of the Tennessee Air Pollution Control Board.


Barry R. Stephens, P.E.
Technical Secretary
Tennessee Air Pollution
Control Board

NOTICE OF RIGHTS

Pursuant to Tennessee Code Annotated §§ 68-201-108(a) and 68-201-116(b), the Respondent may secure review of this Assessment. In order to secure review of this Assessment, the Respondent must file with the Technical Secretary at the address below a written petition setting forth the grounds and reasons for objecting to the assessment and asking for a hearing before the Air Pollution Control Board. The Respondent must file the written petition within thirty (30) days of receiving of this Order and Assessment. The Technical Secretary's address is:

Department of Environment and Conservation
Division of Air Pollution Control
9th Floor, L & C Annex
401 Church Street
Nashville, TN 37243-1531

If the required written petition is not filed within thirty (30) days of receipt of this Order and Assessment, then the Respondent will be deemed to have consented to the Order and it shall become final. This means that unless the appeal is filed on time that the Board will not hear any appeal.

Any hearing of this case before Air Pollution Control Board for which a Respondent properly petitions is a contested case hearing governed by Tenn. Code Ann. § 4-5-301 *et seq.* (the Uniform Administrative Procedures Act.) and the Dept. of State's Uniform Rules of Procedure for Hearing Contested Cases Before State Administrative Agencies. The hearing is in the nature of a trial before the Board sitting with an

Administrative Law Judge. The Respondent may subpoena witnesses on its behalf to testify.

If the Respondent is an **individual**, the Respondent may **either** obtain legal counsel representation in this matter, both in filing its written petition and in presenting evidence at the hearing, or **proceed without an attorney**. Low-income individuals may be eligible for representation at no cost or reduced cost through a local bar association or legal aid organization. This does not mean that the Department is obligated to provide counsel. If the Respondent is a **corporation, Limited Liability Partnership, Limited Liability Company or any other artificial entity created by law**, then it is the Department's position that the Respondent must obtain legal counsel to represent it in this matter.

RLP/APC-08-0063